

# KEWEENAW BAY INDIAN COMMUNITY

Keweenaw Bay Tribal Center  
16429 Beartown Road  
Baraga, Michigan 49908  
Phone (906) 353-6623  
Fax (906) 353-7540

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May 29, 2017

Clerk of the Board  
U.S. Environmental Protection Agency  
Environmental Appeals Board  
1200 Pennsylvania Avenue, NW  
Mail Code 1103M  
Washington, DC 20460-0001  
(Sent Via U.S. Mail & Fax to 202-233-0121)

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U.S. E.P.A.  
June 1  
2015 ~~MAY 29~~ PM 2:38  
ENVIR. APPEALS BOARD

Re: Save the Wild UP Petition for Review - Lundin Eagle Mine, LLC Case No UIC-5-

On behalf of the Keweenaw Bay Indian Community (KBIC), I write in declaration as to the position of KBIC on the industrial mine water discharges at the Eagle mine located in Marquette County, Michigan.

The mine water discharges at the Eagle mine require regulation by a National Pollution Discharge Elimination System (NPDES) permit under the Clean Water Act in order to protect our water and other natural resources that appertain to KBIC under Federal law including but not limited to, the Salmon Trout River which flows into Lake Superior. The entire area where the Eagle mine water discharges are released is entirely within the ceded territory where KBIC retains the right to hunt, fish and gather as granted by treaty with the United States.

The Petition for Review submitted by Save the Wild UP before the Environmental Appeals Board requests that the United States Environmental Protection Agency require a NPDES permit for the industrial mine water discharges from Eagle mine. KBIC supports this plea for the following reasons:

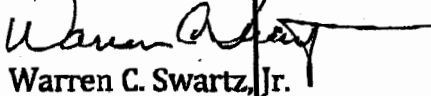
1. Industrial mine water discharges are released at the Eagle mine above the surface of the ground through a discreet conveyance called a rapid infiltration system.
2. All of the industrial mine water discharges present to the surface in the form of seeps or springs a short distance from the Eagle mine and flow into the East Branch of the Salmon Trout River which ultimately flows into Lake Superior. Lake Superior is essential to the purposes for which the L'Anse Indian Reservation, our homeland, was created.

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3. A Ground Water Discharge Permit (GWDP) that was reissued by the State of Michigan on March 25, 2015 fails to adequately regulate the industrial mine water discharges released at the Eagle mine.
4. The reissued GWDP increased the amount of contaminants allowed, fails to set an allowable limit for many contaminants, and otherwise fails to adequately protect a fragile and highly important ecosystem that KBIC tribal members depend on for food and medicine.
5. The United States Environmental Protection Agency Region 5 has failed to discharge its trust responsibility to KBIC by inaccurately determining that these are "indirect discharges" to waters of the United States and certified that the provisions of the GWDP adequately protect surface water.

In conclusion, KBIC requests that in considering its jurisdiction over the Petition for Review submitted by Save the Wild UP, the Environmental Appeals Board take into account the highly important trust responsibility that the United States Environmental Protection Agency must release to Indian tribes. This trust responsibility simply requires that USEPA Region 5 properly exercise its authority under the Clean Water Act so that others do not unreasonably pollute within our ceded territory.

Respectfully,



Warren C. Swartz, Jr.  
President, Keweenaw Bay Indian Community